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Filing date: **03/30/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91161954
Party	Plaintiff PABST BREWING COMPANY
Correspondence Address	WILLIAM B. NASH JACKSON WALKER L.L.P. 112 E. PECAN STREET, SUITE 2100 SAN ANTONIO, TX 78205 UNITED STATES bnash@jw.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	William B. Nash
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Signature	/William B. Nash/
Date	03/30/2009
Attachments	2009-03-30 Fifth Notice of Reliance_2.pdf (15 pages)(140410 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

	X	
)	
Pabst Brewing Company)	Opposition No. 91161954
Opposer,)	Opposition No. 91161955
)	
v.)	
)	Serial Nos.: 75/883,254 and 75/883,253
Lone Star Steakhouse & Saloon)	Mark: LONE STAR (and Design)
Applicant.)	
	X	

OPPOSER'S FIFTH NOTICE OF RELIANCE

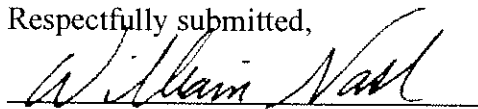
Opposer, Pabst Brewing Company ("Pabst"), by and through its attorney of record, submits this Fifth Notice of Reliance pursuant. Specifically, Opposer relies on the Declarations of Gary Galecke and David Schield, attached hereto as Exhibit 1 and Exhibit 2, respectively.

Exhibit 1: Declaration of Gary Galecke

Exhibit 2: Declaration of David Schield

Dated: March 30, 2009

Respectfully submitted,



William B. Nash, Reg. No. 33,743

Jackson Walker, L.L.P.

112 East Pecan St., Suite 2100

San Antonio, Texas 78205

(210) 978-7700

(210) 978-7790 (Fax)

Attorneys For Opposer, Pabst Brewing
Company


CERTIFICATE OF SERVICE

This is to certify that on this 30th day of March, 2009, a true and correct copy of the foregoing Opposer's Fifth Notice of Reliance was served via electronic mail to the following:

Phillip L. Free, Jr., OBA #15765
Marie S. Johnston, OBA # 19847
Crowe & Dunlevy, P.C.
20 North Broadway, Suite 1800
Oklahoma City, OK 73102-8273

Pmail@crowedunlevy.com

Attorney for Applicant Lone Star Steakhouse & Saloon



William B. Nash
Attorney for Opposer

Exhibit

1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Opposer,)	Opposition No. 91161955
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DECLARATION GARY GALECKE

1. My name is Gary Galecke. I am over 18 years of age and am a resident of the State of Wisconsin. I am the Manager POS/Packaging Procurement Department for Pabst Brewing Company. I am authorized to make this declaration on behalf of Pabst Brewing Company. The factual statements made below are based on personal knowledge or on information concerning the use of Opposer's Marks in commerce and the efforts to secure Opposer's trademark rights concerning Opposer's Marks in commerce. To the best of my knowledge, information, and belief, all facts stated herein are true and correct.


2. Pabst Brewing Company and its predecessors in title have, since 1988, used the LONE STAR mark on a variety of goods, including, but not limited to, beer, clothing, steins, and glassware. As evidence of such use, Opposer submits true and correct copies of U.S. Registration No. 674,291 issued on February 17, 1959 (Exhibit A), U.S. Registration No. 2,191,783 issued on September 28, 1998 (Exhibit B), and U.S. Registration No. 3,264,576 issued on July 17, 2007 (Exhibit C).

3. Based on my corporate knowledge, Opposer and its predecessors in title of Opposer's trademarks (i.e., Registration Nos. 674,291, 2,191,783, and 3,264,576), sold the clothing that is pictured in and exemplified by the attached page from a product catalogue used by the owner of Opposer's trademarks since before October 12, 1989 (Exhibit D).

4. The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his own knowledge are true; and all statements made on information and belief are believed to be true.

5. I declare under penalty of perjury that the foregoing is true and correct.

GARY GALECKE
PABST BREWING COMPANY.

By: 

Gary Galecke, Manager POS/Packaging
Procurement, Pabst Brewing Company

Exhibit

A

United States Patent Office

674,291
Registered Feb. 17, 1959

PRINCIPAL REGISTER Trademark

Ser. No. 50,368, filed Apr. 25, 1958

**LONE
STAR**

Lone Star Brewing Co. (Texas corporation)
542 Simpson St.
San Antonio, Tex.

For: BEER, in CLASS 48.
First use Feb. 1, 1940; in commerce Feb. 26, 1958.

Exhibit

B

Int. Cl.: 32

Prior U.S. Cls.: 45, 46 and 48

Reg. No. 2,191,783

United States Patent and Trademark Office

Registered Sep. 29, 1998

**TRADEMARK
PRINCIPAL REGISTER**

LONE STAR

**STROH BREWERY COMPANY, THE (ARIZONA
CORPORATION)
100 RIVER PLACE
DETROIT, MI 48207**

**FOR: ALCOHOLIC AND NONALCOHOLIC
MALT BEVERAGES, IN CLASS 32 (U.S. CLS.
45, 46 AND 48).**

**FIRST USE 2-1-1940; IN COMMERCE
2-1-1940.**

**OWNER OF U.S. REG. NOS. 674,291 AND
676,429.**

SER. NO. 75-177,598, FILED 10-7-1996.

ROBERT J. CROWE, EXAMINING ATTORNEY

Exhibit

C

Int. Cl.: 32

Prior U.S. Cls.: 45, 46 and 48

United States Patent and Trademark Office

Reg. No. 3,264,576

Registered July 17, 2007

**TRADEMARK
PRINCIPAL REGISTER**

LONE STAR

**PABST BREWING COMPANY (DELAWARE
CORPORATION)**

P.O. BOX 1661

SAN ANTONIO, TX 78296

FOR: BEER, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 2-1-1940; IN COMMERCE 2-26-1958.

**THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.**

**OWNER OF U.S. REG. NOS. 674,291, 2,546,443 AND
OTHERS.**

SER. NO. 78-834,172, FILED 3-10-2006.

DAVID HOFFMAN, EXAMINING ATTORNEY

Exhibit

D



McSORLEY'S



A. PIQUE SPORTSHIRT Washed forest green 100% cotton features embroidered left chest logo. Sizes M-XXL.
MAA-201 \$32.95
XXL \$35.25

D. LONG-SLEEVE MOCK TURTLENECK White 100% cotton features embroidered left chest logo. Sizes M-XXL.
MAA-202 \$15.50
XXL \$16.50

B. SHORT-SLEEVE T-SHIRT Mineral 100% cotton features screened left chest two-color logo. Sizes M-XXL.
MAT-201 \$5.35 **XXL \$7.05**

E. LONG-SLEEVE T-SHIRT Pigment-dyed green 100% cotton features screened left chest, full-back full-color logo. Sizes M-XXL.
MAT-202 \$10.95
XXL \$12.25

C. UNSTRUCTURED COTTON TWILL CAP Hunter Green 6-panel features embroidered logo on front with "Brewed with Irish Spirit" logo on back. Adjustable fabric strap with snap.
MAC-201 \$8.95

F. UNSTRUCTURED COTTON TWILL CAP Khaki 6-panel front logo with "Brewed with Irish Spirit" on back.
MAC-202 \$8.95

LONE STAR / LONE STAR LIGHT



A. HUNTING CAP Blaze orange 5-panel features embroidered black front logo. Adjustable.
LSC-203 \$7.50

B. CAMOUFLAGE CAP Solid twill features embroidered black front logo. Adjustable.
LSC-204 \$7.50

C. PRO-STYLE TWILL CAP Solid red 6-panel features embroidered front logo. Adjustable.
LSC-202 \$5.50

D. SHORT-SLEEVE T-SHIRT White 100% cotton features screened left chest full-color front and full-back logo. Sizes M-XXL.
LLT-202 \$5.95 **XXL \$7.50**

E. SHORT-SLEEVE T-SHIRT Dyed navy 100% cotton features screened left chest full-color front and full-back logo. Sizes M-XXL.
LST-203 \$6.25 **XXL \$8.25**

F. INTERLOCK SPORT SHIRT White 100% cotton features embroidered left chest logo. Sizes M-XXL.
LLA-201 \$14.95 **XXL \$15.95**

G. SHORT-SLEEVE T-SHIRT White 100% cotton features screened left chest full-color front and full-back logo. Sizes M-XXL.
LST-202 \$6.75 **XXL \$8.25**

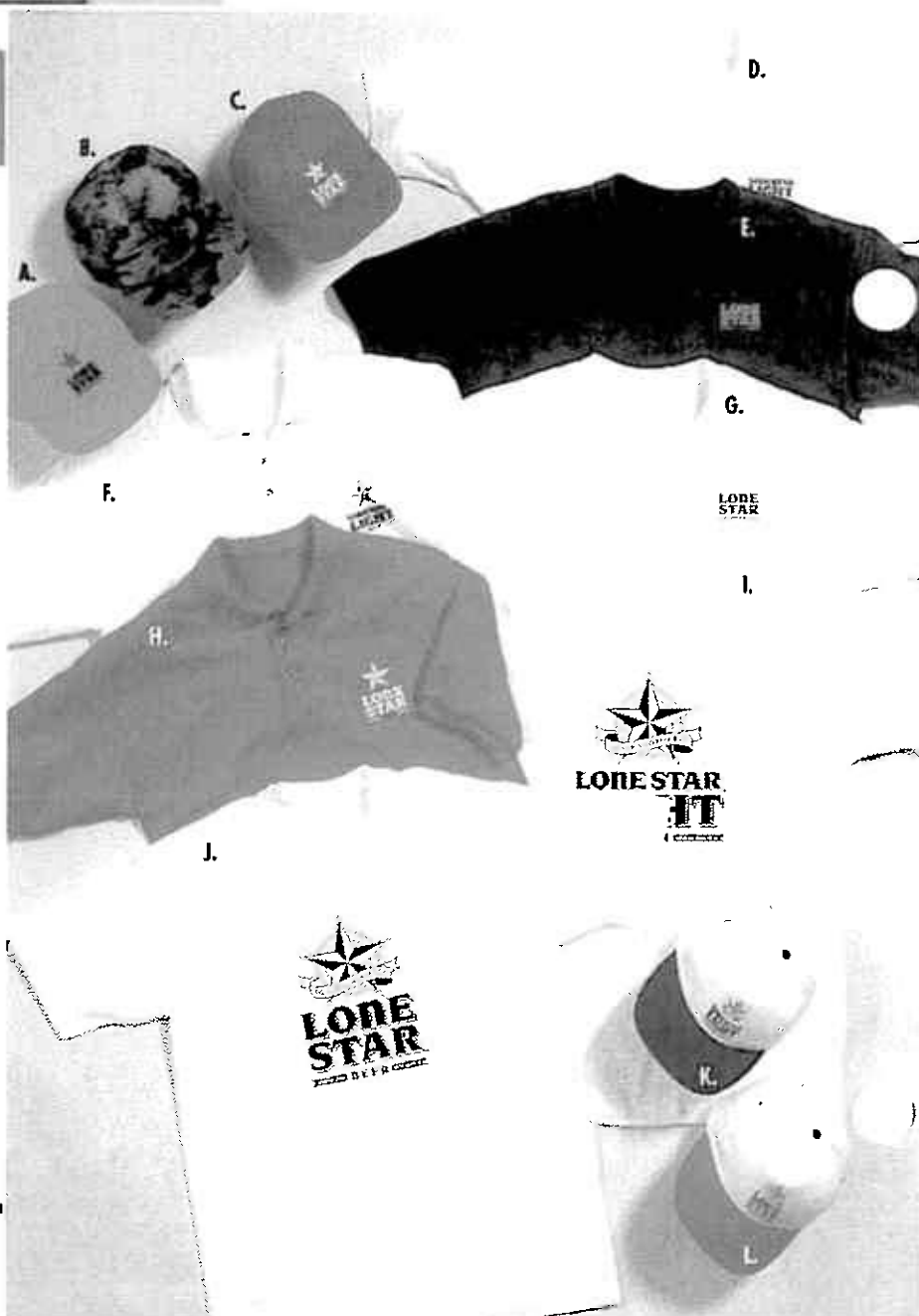
H. INTERLOCK SPORT SHIRT Red 100% cotton features embroidered left chest logo. Sizes M-XXL.
LSA-201 \$15.95 **XXL \$16.95**

I. PROMOTIONAL SHORT-SLEEVE T-SHIRT White 100% cotton features screened navy full-front logo. Sizes M-XXL.
LLT-201 \$5.25 **XXL \$6.95**

J. PROMOTIONAL SHORT-SLEEVE T-SHIRT White 100% cotton features screened red full-front logo. Sizes M-XXL.
LST-201 \$5.25 **XXL \$6.95**

K. PROMOTIONAL TWILL CAP White 5-panel crown/royal visor features screened front logo. Adjustable.
LLC-201 \$4.50

L. PROMOTIONAL TWILL CAP White 5-panel crown/red visor features screened front logo. Adjustable.
LSC-201 \$4.50



Exhibit

2

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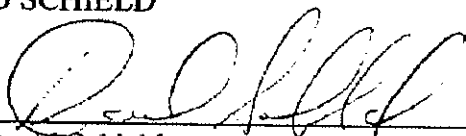
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Applicant.)	Mark: LONE STAR (and Design)
	X	

DECLARATION DAVID SCHIELD

1. The factual statements made below are based on my personal knowledge.
2. I worked for the G. Heileman Brewing Company starting in 1986. In 1987, I visited the Lone Star Brewery in San Antonio. During that visit, I toured the gift shop located on Lone Star Grounds at 600 Lone Star Blvd., San Antonio, Texas and saw Lone Star branded shirts and other Lone Star clothing for sale to the general public.
3. That is, prior to 1988 and through 1989, G. Heileman Brewing Company (i.e., the then owner of the LONE STAR trademarks now owned and asserted by Pabst Brewing Company in the above styled matter) had shirts made with the LONE STAR trademark shown on those shirts. Prior to 1988 and through 1989, G. Heileman Brewing Company sold those shirts to the public at their gift shop located on Lone Star Grounds at 600 Lone Star Blvd., San Antonio, Texas.
4. I declare under penalty of perjury that the foregoing is true and correct.

DAVID SCHIELD

By:


David Schield